

116TH CONGRESS  
1ST SESSION

# S. 273

To amend the Communications Act of 1934 to require providers of a covered service to provide location information concerning the telecommunications device of a user of such service to an investigative or law enforcement officer or an employee or other agent of a public safety answering point in an emergency situation involving risk of death or serious physical harm or in order to respond to the user's call for emergency services.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2019

Mr. ROBERTS (for himself, Mr. MORAN, Mr. BLUNT, and Mrs. FISCHER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Communications Act of 1934 to require providers of a covered service to provide location information concerning the telecommunications device of a user of such service to an investigative or law enforcement officer or an employee or other agent of a public safety answering point in an emergency situation involving risk of death or serious physical harm or in order to respond to the user's call for emergency services.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Kelsey Smith Act”.

3 **SEC. 2. REQUIRED EMERGENCY DISCLOSURE OF LOCATION**  
 4 **INFORMATION TO LAW ENFORCEMENT OR**  
 5 **PUBLIC SAFETY ANSWERING POINT.**

6 Section 222 of the Communications Act of 1934 (47  
 7 U.S.C. 222) is amended—

8 (1) in subsection (d)—

9 (A) in paragraph (4), by redesignating  
 10 subparagraphs (A), (B), and (C) as clauses (i),  
 11 (ii), and (iii), respectively, and adjusting the  
 12 margins accordingly;

13 (B) by redesignating paragraphs (1)  
 14 through (4) as subparagraphs (A) through (D),  
 15 respectively, and adjusting the margins accord-  
 16 ingly;

17 (C) in the matter preceding subparagraph  
 18 (A), as so redesignated, by striking “Nothing in  
 19 this section” and inserting the following:

20 “(1) PERMITTED DISCLOSURES.—Nothing in  
 21 this section”; and

22 (D) by adding at the end the following:

23 “(2) REQUIRED EMERGENCY DISCLOSURE OF  
 24 LOCATION INFORMATION TO LAW ENFORCEMENT OR  
 25 PUBLIC SAFETY ANSWERING POINT.—

“(A) LOCATION INFORMATION REQUESTS.—Notwithstanding subsections (a), (b), and (c), at the request of an investigative or law enforcement officer or an employee or other agent of a public safety answering point acting on behalf of such an officer, who is acting in the course of the official duties of the officer or agent, a provider of a covered service shall provide to the officer or agent the available location information of a telecommunications device without delay if the officer or agent asserts—

“(i) that the device was used to place a 9–1–1 call requesting emergency assistance during the preceding 48-hour period; or

“(ii) reasonable suspicion that the device is in the possession of an individual who is involved in an emergency situation that involves the risk of death or serious physical harm.

“(B) RECORDS OF DISCLOSED RECORDS.—If an investigative or law enforcement officer, or an employee or other agent of a public safety answering point acting on behalf of such an officer, submits a request for location information

1 to a provider of a covered service under sub-  
2 paragraph (A), the investigative or law enforce-  
3 ment agency employing the officer shall main-  
4 tain a record of the request that includes each  
5 of the following:

6 “(i) The name of the officer or agent  
7 making the request (and, in the case of a  
8 request made by an agent, the name of the  
9 officer on whose behalf the agent is act-  
10 ing).

11 “(ii) A description of the request that  
12 explains the need for disclosure of location  
13 information.

14 “(iii) A declaration that disclosure of  
15 location information is needed based on the  
16 conditions described in clause (i) or (ii) of  
17 subparagraph (A).

18 “(C) HOLD HARMLESS.—No cause of ac-  
19 tion shall lie in any court, nor shall any civil or  
20 administrative proceeding be commenced by any  
21 person or entity, against a provider of a covered  
22 service, or its directors, officers, employees,  
23 agents, or vendors, for providing location infor-  
24 mation or assistance in accordance with sub-

1 paragraph (A) and any regulations promulgated  
2 under this paragraph.

3 “(D) RELATIONSHIP TO STATE LAW.—

4 “(i) IN GENERAL.—Nothing in this  
5 section exempts a telecommunications car-  
6 rier or a provider of a covered service from  
7 complying, in a circumstance described in  
8 clause (ii), with any applicable State law  
9 that requires the carrier or provider to pro-  
10 vide location information of a telecommuni-  
11 cations device to an investigative or law en-  
12 forcement officer or an employee or other  
13 agent of a public safety answering point  
14 acting on behalf of such an officer in re-  
15 sponse to a request by the officer or agent.

16 “(ii) APPLICABILITY.—A circumstance  
17 described in this clause is a circumstance  
18 in which the officer or agent—

19 “(I) makes the request while act-  
20 ing in the course of the official duties  
21 of the officer or agent; and

22 “(II) asserts that the request is  
23 made for the purpose of responding  
24 to—

1 “(aa) a call for emergency  
2 services; or

3 “(bb) an emergency situa-  
4 tion that involves the risk of  
5 death or serious physical harm.”;

6 (2) in subsection (f)(1), by striking “subsection  
7 (d)(4)” and inserting “subsection (d)(1)(D)”; and

8 (3) in subsection (h), by adding at the end the  
9 following:

10 “(8) COVERED SERVICE.—The term ‘covered  
11 service’ means—

12 “(A) a commercial mobile service (as de-  
13 fined in section 332(d)); or

14 “(B) an IP-enabled voice service (as de-  
15 fined in section 7 of the Wireless Communica-  
16 tions and Public Safety Act of 1999 (47 U.S.C.  
17 615b)).

18 “(9) INVESTIGATIVE OR LAW ENFORCEMENT  
19 OFFICER.—The term ‘investigative or law enforce-  
20 ment officer’ has the meaning given the term ‘Inves-  
21 tigative or law enforcement officer’ in section 2510  
22 of title 18, United States Code.”.

23 **SEC. 3. CONFORMING AMENDMENT.**

24 Section 2707(a) of title 18, United States Code, is  
25 amended by inserting after “Except as provided in section

1 2703(e)” the following: “of this title and section  
2 222(d)(2)(C) of the Communications Act of 1934”.

